

**MINUTES OF THE
CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL**
Thursday, December 3, 2015 – 9:00 a.m. – Room 450 Capitol Building

Members Present:

Sen. Allen M. Christensen, Senate Chair
Rep. Earl D. Tanner, House Chair
Sen. Gene Davis

Rep. Sandra Hollins

Staff Present:

Mr. Adam J. Sweet, Policy Analyst
Mr. Gregg A. Girvan, Policy Analyst
Ms. Lee Killian, Associate General Counsel
Ms. Lori Rammell, Legislative Assistant

Members Absent:

Rep. Johnny Anderson

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Christensen called the meeting to order at 9:14 a.m. Rep. Anderson and Rep. Hollins were excused from the meeting.

2. Guardian ad Litem

Ms. Stacey Snyder, Director, Office of the Guardian ad Litem, introduced herself and explained her background in the field of child welfare. She distributed "Utah Office of Guardian ad Litem & CASA, 2015 Annual Report" and discussed the seven performance measures outlined in the report, including the training available to Guardians ad Litem (GALs), the slight reduction in GAL caseloads, the issue of children in court, the number of cases that go to appeal, independent investigation activities, and the efforts to provide GALs with the required technology to move toward a paperless process. She updated the panel on the work of the Court Appointed Special Advocate Program, or CASA.

Ms. Snyder reviewed the audit results that show how low pay is affecting GAL attorney retention. She reported that the turnover rate in the Office of the Guardian ad Litem is 18% according to the audit. She spoke of the effect of high turnover on the relationships and continuity between GALs and families.

Ms. Snyder responded to questions from the panel regarding caseloads and current GAL salaries, and requested a 14% salary increase for GALs.

3. Reporting Requirements for Suspected Abuse or Neglect

Ms. Killian distributed 2015 General Session S.B. 103, "Child Welfare Amendments"; Utah Code Section 62A-4a-403, Reporting requirements; 62A-4a-202.3, Investigation – Supported or unsupported reports – Child in protective custody; 62A-4a-412, Reports and information confidential; and 78A-6-105, Definitions. She introduced this issue by explaining the policy questions being considered and the statute that requires reporting of suspected abuse or neglect, including whether that statute requires reporting of a minor's consensual sexual activity.

Mr. Brent Platt, Director, Division of Child and Family Services, spoke about the work being done by the division and Sen. Harper to redefine child abuse while ensuring children are protected.

Ms. Sarah Houser, Child Protective Services Program Administrator, Division of Child and Family Services, reported on the efforts to distinguish juvenile predators from juveniles sexually acting out for some reason. She outlined three distinct categories for the purposes of screening child perpetrators:

- 10 years of age and younger,
- 11-13 years of age, and
- 4-17 years of age.

Ms. Houser responded to questions from the committee regarding the classification of all sexual abuse as "chronic and severe," and the expungement of juvenile records from the Licensing Information System.

Mr. Dave Carlson, Director, Child Protection Division, Office of the Attorney General, said the Attorney General's office does not consider consensual conduct between teenagers to be sexual abuse. He reported on the work of the Utah Network of Juveniles Offending Sexually (NOJOS), an organization examining when sexual contact between children is abusive and when it is normal curiosity and experimentation. He said the Licensing Information System is just a small portion of the Division of Child and Family Services database and is limited to those cases where the evidence is most clear and the abuse is most severe. He said the historical record is highly protected, but kept for purposes of future comparison in case of later abuse. He said access to the Licensing Information System is limited to a small number of people and agencies, and they, in turn, must treat it with the same degree of confidentiality the division is required to use.

Mr. Carlson said that Utah Code Section 62A-4a-409 contains the language "reasonable cause to suspect abuse," and thus the agency can determine what should be labeled as abuse and what should not, based on the risk assessment and the NOJOS guidelines. He pointed out that the definitions in the Criminal Code do not match those in the Human Services Code, where they are more broad and general, and subject to interpretation.

Rep. Tanner pointed out that there may need to be some legislation to better outline what is already being done as regards to prosecution of consensual sexual participants.

Dr. Kristine Campbell, Pediatrician, University of Utah Health Care, explained her background in handling pediatric child abuse cases. She expressed concern that changing the statute could make things more complicated for mandatory reporters such as healthcare workers, but as it is currently written the statute seems illogical and confusing. She explained that the Criminal Code pertaining to underage sexual contact is currently being used by mandatory reporters in the healthcare industry, though she does not believe it makes sense to define as "abuse" consensual sexual activity, which is normal in teenagers. She said that to expect healthcare providers to act appropriately, there should be greater logic in the law.

Dr. Campbell cited an incident with a 14-year-old patient who admitted to having sex with his same-age girlfriend, which then needed to be reported to the Division of Child and Family Services, his parent, etc. That young man, she said, changed his answer and lost trust in his doctor as a result. She pointed out that she is not required to report criminal activity or physical abuse in this way, for example a fight between two 13-year-olds, so she doesn't understand the mandate to report consensual sexual activity between teenagers. She suggested the second line in the Child Welfare Code, which refers to the Criminal Code, be eliminated. She also suggested a close-in-age exception, where consensual sexual activity between teenagers is allowed, and legal language that allows the policy to change so the Division of Child and Family Services can guide a mandatory reporter based on the circumstances. She said the ability to report should not be removed, because not all close-in-age relationships are appropriate, but there should be an exception for consensual sexual activity.

Ms. Killian explained the universal reporting requirement, including in the statute the word "shall." She said there could be an exception made in statute for certain professionals.

Sen. Christensen suggested the definition of "abuse" could be rewritten to be clearer.

Sen. Harper explained that the definition in the Child Welfare Code that refers to the Criminal Code was written years ago, though over the last four years the Legislature has attempted to make logical changes to that part of the statute. He said he continues to work with the Division of Child and Family Services to determine what should be reported, when, and why. He stated that he will not have a final draft of proposed legislation until he feels certain that all stakeholders have come to an agreement on the language. He said that the intention is not to overburden the medical community, while assuring protection to children.

Sen. Davis requested that Sen. Harper's draft legislation, when complete, be presented to the Child Welfare Legislative Oversight Panel before the 2016 General Session.

4. Other Items/Adjourn

MOTION: Sen. Davis moved to adjourn the meeting. The vote in favor was unanimous.

Chair Christensen adjourned the meeting at 10:55 a.m.